


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
NOV 27 2007

CLERK

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AARON L. SCHNITZLER, * CIV 06-4064
*
Plaintiff, *
*
*
vs. *
*
TIM REISCH, Cabinet Secretary, * ORDER
SD Department of Corrections; *
BOB DOOLEY, Warden, Mike Durfee *
State Prison; MIKE STORGAARD, *
STOP Treatment Director, Mike Durfee *
State Prison, *
*
Defendants. *

Plaintiff moved for reconsideration of the Court's October 2, 2007, Supplemental Order which granted summary judgment to the Defendants on Plaintiff's claims except for the claim seeking relief under the Religious Land Use and Institutional Persons Act. The Motion for Reconsideration has not presented any new evidence nor any new arguments that were not considered by the Court in its ruling of October 2, 2007. Accordingly, the Motion for Reconsideration, Doc. 78, is denied.

On October 29, 2007, Plaintiff moved to strike the Affidavit of Dr. David Kauffman. The Affidavit meets the requirements of Federal Rules of Civil Procedure 56(e). Dr. Kauffman would be competent to testify in the matters contained in his Affidavit and the attachments to the Affidavit were supporting materials to the Affidavit. The claim of bias would not go to the admissibility of Dr. Kauffman's testimony but rather the weight to be given to the testimony of Dr. Kauffman. The Court does credit Dr. Kauffman's testimony and finds that he is qualified to give his expert opinions set forth in his Affidavit. Accordingly, the Motion to Strike the Affidavit of Dr. Kauffman, Doc. 80, is denied.


Accordingly,

IT IS ORDERED:

1. That the Plaintiff's Motion for Reconsideration, Doc. 78, is denied.
2. That the Plaintiff's Motion to Strike the Affidavit of Dr. Kauffman, Doc. 80, is denied.

Dated this 27th day of November, 2007.

BY THE COURT:


Lawrence L. Piersol
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY Shelly Margulies
DEPUTY